IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

WP(C).No. 24000 of 2007(F)

PETITIONER:

M.P.AUGUSTINE, AGED 75 YEARS,
S/O.PAILY, CONVICT NO.3452,
CENTRAL JAIL, KANNUR.

BY ADV. SRI.P.VIJAYA BHANU
SRI.M.GEORGE THOMAS

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY ITS PRINCIPAL SECRETARY TO GOVERNMENT, HOME (B) DEPARTMENT, THIRUVANANTHAPURAM.**

2. **THE ADDITIONAL DIRECTOR GENERAL OF POLICE, (JAIL), THIRUVANANTHAPURAM.**

3. **THE INSPECTOR GENERAL OF PRISONS, THIRUVANANTHAPURAM.**

4. **THE ADVISORY BOARD CONSTITUTED UNDER THE PRISON RULES, REPRESENTED BY ITS SECRETARY, THIRUVANANTHAPURAM.**

5. **THE SUPERINTENDENT OF PRISONS, KANNUR.**

6. **THE ADDITIONAL CHIEF SECRETARY TO GOVERNMENT, HOME DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.**

BY GOVERNMENT PLEADER SRI.BENJAMIN PAUL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.24000/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE JUDGMENT IN WPC. 31298/03 SR.31.10.03 OF THIA HONOURABLE COURT.

EXT.P2:- COPY OF THE STATEMENT FILED BY THE 5TH RESPONDENT IN WPC. 31298/03 ALONG WITH ANNEXURE EXHIBITS.

EXT.P3:- COPY OF THE JUDGMENT IN WPC. NO.1210/04 DT. 13.2.04 OF THIS HONOURABLE COURT.

EXT.P4:- COPY OF THE PETITION FILED BY THE UNDER SECRETARY TO GOVERNMENT HOME DEPARTMENT DT. 11.3.04.

EXT.P5:- COPY OF THE ORDER OF THE 1ST RESPONDENT DT. 29.6.04.

EXT.P6:- COPY OF THE JUDGMENT DT. 23.11.04 OF THIS HONOURABLE COURT IN WP.C 21319/04.

EXT.P7:- COPY OF THE ORDER IN RP. NO.274/06 DT. 16.12.06.

EXT.P8:- COPY OF THE JUDGMENT IN WA. 59/05 OF THIS HONOURABLE COURT, DT. 4.12.06.

EXT.P9:- COPY OF THE REPRESENTATION WITHOUT THE ANNEXURE DT. 30.12.06, SET TO THE GOVERNMENT BY REGISTERED POST.

EXT.P10:- COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN WP. 3855/07 DT. 12.2.07.

EXT.P11:- COPY OF THE ORDER DT. 8.6.07 SENT BY THE ADDL. CHIEF SECRETARY TO GOVERNMENT REJECTING THE CLAIM OF PETITIONER FOR PREMATURE RELEASE.

/TRUE COPY/

P.S. TO JUDGE

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ANTONY DOMINIC, J.

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W.P.(C) No. 24000 OF 2007 F
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Dated this the 25th October, 2007

J U D G M E N T

Petitioner challenges Ext. P11 order. By Ext. P11 dated 8-6-2007, Ext. P9 representation submitted by the petitioner which was directed to be considered by the respondents as per Ext. P10 judgment, has been rejected only on the basis that the Advisory Board meeting held on 30-11-2006 did not recommend his case. As is evident from Ext. P9, for reasons stated therein, petitioner sought release from the jail where he is undergoing imprisonment.

2. It is this claim urged by the petitioner in Ext. P9, that was directed to be considered in Ext. P10 judgment. However, a reading of Ext. P11 shows that none of the grounds urged by the petitioner for premature release were considered by the respondents while rejecting his request. On the other hand, the fact that the Advisory Board meeting held as early as on 30-11-2006 did not recommend his case is the only basis for the rejection.

3. Since the direction in Ext. P10 judgment has not been satisfactorily complied with, for that reason Ext. P11 deserves to be quashed and I do so. It is directed that Ext. P9 representation of the petitioner shall be placed before the Advisory Board in its next meeting and based on the recommendation of the Advisory Board his claim for release shall be considered.

Writ petition is disposed of as above.

ANTONY DOMINIC
JUDGE

jan/-